EAST INDIA (CRIMINAL LAW AMENDMENT ACT, 1935)

Criminal Law Amendment Act, 1935

Passed under the procedure prescribed by section 67B of the Government of India Act

Presented by the Secretary of State for India to Parliament by Command of His Majesty
October, 1935

LONDON
PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
Adastral House, Kingsway, London, W.C.2; 120 George Street, Edinburgh 2;
York Street, Manchester 1; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any Bookseller

1935
Price 6*d.* Net

Cmd. 5011

TABLE OF CONTENTS

		PAGE
No. 1.	Text of the Criminal Law Amendment Act, 1935	3
No. 2.	Text of the Indian Press (Emergency Powers) Act, 1931, and of the Criminal Law Amendment Act, 1932	6
No. 3.	Despatch from the Governor-General to the Secretary of State for India, dated 4th October, 1935, with an annexure ...	28
No. 4.	Telegram from the Secretary of State for India to the Governor-General, dated 17th October, 1935...	34

Digitized with financial assistance from

H T Parekh FOUNDATION

An Initiative by HDFC WITH YOU, RIGHT THROUGH

on 10 January, 2019

EAST INDIA (CRIMINAL LAW AMENDMENT ACT, 1935)

No. 1.

WHEREAS by its vote of the 12th September, 1935, the Legislative Assembly has refused to take into consideration a Bill entitled a Bill to amend the Criminal Law ;

Now, therefore, I, Freeman, Earl of Willingdon, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, do recommend to the Legislative Assembly that it do pass the Bill in the form hereto annexed.

WILLINGDON,
Viceroy and Governor General.

Simla,
The 16th September, 1935.

WHEREAS the Legislative Assembly has by its vote of the 16th September, 1935, refused leave to introduce a Bill entitled a Bill to amend the Criminal Law;

Now therefore, I, Freeman, Earl of Willingdon, in pursuance of the provisions of sub-section (1) of Section 67B of the Government of India Act, do hereby certify that the said Bill is essential for the tranquillity of British India.

WILLINGDON,
Viceroy and Governor General.

Simla,
The 18th September, 1935.

In pursuance of the provisions of sub-section (1) of Section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Council of State that it do pass the Bill to amend the Criminal Law in the form hereto annexed.

WILLINGDON,
Viceroy and Governor General.

Simla,
The 18th September, 1935.

LIBRARY OF THE

A BILL

To amend the Criminal Law.

WHEREAS it is expedient to amend the Criminal Law in the manner hereinafter appearing; It is hereby enacted as follows:—

Short title and extent.

1.—(1) This Act may be called the Criminal Law Amendment Act, 1935.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

XXIII of 1932. Repeals.

2.—(1) Sub-section (3) of section 1 and sections 2, 3, 4, 6, 8, 15, 17 and 20 of the Criminal Law Amendment Act, 1932, are hereby repealed.

XXIII of 1931.

(2) Sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, is hereby repealed.

XXIII of 1932. Amendment of preamble, Act XXIII of 1932.

3. In the preamble to the Criminal Law Amendment Act, 1932, the word "temporarily" shall be omitted.

XXIII of 1932. Amendment of section 1, Act XXIII of 1932.

4. In sub-section (4) of section 1 of the Criminal Law Amendment Act, 1932, the words and figure "section 4 and" and the words and figure "section 4 or" shall be omitted.

5. In section 9 of the Criminal Law Amendment Act, 1932,—

XXIII of 1932. Amendment of section 9, Act XXIII of 1932.

(*a*) in clause (ii) the figures "2", "3" and "6" shall be omitted; and

(*b*) clause (iii) shall be omitted.

XXIII of 1932. Amendment of sections 11, 12 and 13, Act XXIII of 1932.

6. In sections 11, 12 and 13 of the Criminal Law Amendment Act, 1932, the words "So long as this Act remains in force", and the words "deemed to be", shall, wherever they occur, be omitted.

XXIII of 1931. Amendment of section 32, Act XXIII of 1931.

7. In section 32 of the Indian Press (Emergency Powers) Act, 1931, the words "So long as this Act remains in force" shall be omitted.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,
President, Council of State.

The 28th September, 1935.

I assent to this Bill.

WILLINGDON,
Viceroy and Governor General.

The 4th October, 1935.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act.

WILLINGDON,
Viceroy and Governor General.

The 4th October, 1935.

An authentic copy.

L. GRAHAM.
Secretary to the Government of India, Legislative Department.

STATEMENT OF OBJECTS AND REASONS.

The Criminal Law Amendment Act, 1932, will expire on 18th December, 1935. The Government of India propose by this Bill to continue certain of the provisions of that Act in a permanent form. The present Act includes—

(*a*) provisions against certain forms of intimidation (sections 2—4 and 6—8),

(*b*) provisions against associations dangerous to the public peace (section 13), and

(*c*) provisions to secure greater control over the Press (section 5 and sections 14—16).

2. The civil disobedience movement is at present in abeyance. Government have therefore decided not to continue the provisions against those forms of intimidation which were a special feature of that movement, namely, sections 2, 3, 4, 6 and 8 of the Act. Section 7 stands on a different footing. Picketing has not ceased with the civil disobedience movement. It is now recognised not only as a means of opposition to any form of constituted authority but also of causing annoyance to private persons who differ from the political, economic or religious views of the picketers. It is likely to be a main feature of any subversive movement and it cannot be dealt with effectively under the ordinary law. Government therefore propose to give permanent effect to section 7, which will as at present not come into force unless extended to a particular area by a Local Government.

3. Section 13 confers on Government powers to take certain action in connection with places used for the purposes of an unlawful association. It was enacted to strengthen the Criminal Law Amendment Act of 1908 which is a permanent Act. It is therefore logical to give permanent effect to the provisions of section 13. Unlawful associations are formed for the furtherance of subversive movements other than the civil disobedience movement and it is essential that Government should retain powers to enable them to deal effectively with such associations, when they are of a dangerous character.

4. Section 5 of the Act of 1932 makes it an offence to disseminate the contents of proscribed documents. It is a logical supplement to the Indian Press (Emergency Powers) Act, 1931, and section 99A of the Code of Criminal Procedure, 1898, and should have the same period of validity as those Acts. Sections 14 to 16 continue and extend the scope of the Indian Press (Emergency Powers) Act, 1931. Having regard to the continuance of the terrorist movement, to the existence of a movement which has for its object the overthrow of the present social and economic system by violent means, and the constantly recurring outbursts of communal feeling, Government cannot safely relax their existing powers for the control of the Press and of unauthorised news-sheets and newspapers.

H. D. CRAIK.

SIMLA,
The 16th August, 1935.

No. 2.

THE INDIAN PRESS (EMERGENCY POWERS) ACT, 1931.

ACT No. XXIII OF 1931.

(*As amended by Act XXIII of* 1932.)

(PASSED BY THE INDIAN LEGISLATURE.)

(*Received the assent of the Governor General on the 9th October,* 1931.)

AN ACT

To provide [*for the better control of the Press*].

WHEREAS it is expedient to provide [for the better control of the Press]; It is hereby enacted as follows:—

Short title extent and duration.

1.—(1) This Act may be called the Indian Press (Emergency Powers) Act, 1931.

[ ] Amendment made by Criminal Law Amendment Act, XXIII of 1932.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

(3) It shall remain in force [until the expiration of the Criminal Law Amendment Act, 1932].

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " book " includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

(2) " document " includes also any painting, drawing or photograph or other visible representation;

(3) " High Court " means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras;

(4) " Magistrate " means a District Magistrate or Chief Presidency Magistrate;

(5) " newspaper " means any periodical work containing public news or comments on public news;

(6) " news-sheet " means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4;

(7) " press " includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;

(8) " printing-press " includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;

(9) " unauthorised newspaper " means—

(*a*) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and

XXV of 1867.

(*b*) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;

(10) " unauthorised news-sheet " means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and

(11) " undeclared press " means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867.

XXV of 1867.

Control of printing-presses and newspapers.

Deposit of security by keepers of printing-presses.

3.—(1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose : XXV of 1867.

Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupess as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security or press forfeited in certain cases.

4.—(1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

(*a*) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(*b*) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

[or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force.]

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above,—

(i) where security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(ii) where security has not been deposited, declare the press to be forfeited to His Majesty,

and may also declare all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation 1.—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (*a*).

[*Explanation* 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (*h*) of this sub-section.]

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

5.—(1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose. XXV of 1867.

(2) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

[ ] Amendment made by Criminal Law Amendment Act, XXIII of 1932

Power to declare further security and publications forfeited.

6.—(1) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(*a*) the further security so deposited, or any portion thereof and

(*b*) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867.

Deposit of security by publisher of newspaper.

7.—(1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose:

XXV of 1867.

Provided that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the

Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security forfeited in certain cases.

8.—(1) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,—

(*a*) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(*b*) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, XXV of 1867.

and may also declare all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

9.—(1) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose. XXV of 1867.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

Power to declare further security and newspapers forfeited.

10.—(1) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such news-

paper, stating or describing such words, signs or visible representation, declare—

(*a*) the further security so deposited, or any portion thereof and

(*b*) all copies of such newspapers wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the Local Government.

XXV of 1867.

Penalty for keeping press or publishing newspaper without making deposit.

11.—(1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the Local Government or the Magistrate as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the Local Government or the Magistrate as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867.

XXV of 1867.

Consequences of failure to deposit security as required.

12.—(1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the Local Government may, by notice in writing to the keeper thereof, declare the press to be forfeited to His Majesty.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867.

Return of deposited security in certain cases.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press

is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Issue of search warrant.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the Local Government may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

Authorisation of persons to publish news-sheets

15.—(1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

Power to seize and destroy unauthorised news-sheets and newspapers.

16.—(1) Any police-officer, or any other person empowered in this behalf by the Local Government, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in

the manner provided in sections 523, 524 and 525 of the Code of
V of 1898. Criminal Procedure, 1898.

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

17.—(1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal
V of 1898. Procedure, 1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

Penalty for disseminating unauthorised news-sheets and newspapers.

18.—(1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal
V of 1898. Procedure, 1898, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable.

Special provisions relating to the seizure of certain documents.

Power to declare certain publication forfeited and to issue search warrants for same.

19. Where any newspaper, book or other document wherever made appears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any

police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to detain packages containing certain publications when imported into British India.

20. The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Prohibition of transmission by post of certain documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

Power to detain articles being transmitted by post.

22. Any officer in charge of a post-office or authorised by the Postmaster-General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(*a*) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(*b*) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Powers of High Court.

Application to High Court to set aside order of forfeiture.

23.—(1) The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10, or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

(2) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-section (1)

of that section may apply to such High Court to set aside the order on the ground that the press was not so used.

Hearing by Special Bench.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

Order of Special Bench setting aside forfeiture.

25.—(1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order.

(2) If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing-press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.

(3) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

Evidence to prove nature or tendency of newspapers.

26. On the hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made.

Procedure in High Court.

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Supplemental.

Service of notices.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898 :

V of 1898.

Provided that if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5

XXV of 1867.

of the said Act; and thereupon the notice shall be deemed to have been duly served.

Conduct of searches.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. V of 1898.

Jurisdiction barred.

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

Operation of other laws not barred.

31. Nothing herein contained shall be deemed to prevent any person for being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

Declarations under Act XXV of 1867 to be made before certain Magistrates.

32. So long as this Act remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate. XXV of 1867.

THE CRIMINAL LAW AMENDMENT ACT, 1932.

ACT XXIII OF 1932.

(PASSED BY THE INDIAN LEGISLATURE.)

(Received the assent of the Governor General on the 19th December, 1932.)

AN ACT

To Supplement the Criminal Law.

WHEREAS it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend temporarily the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing; XXIII of 1931. XIV of 1908.

It is hereby enacted as follows :—

Short title, extent, duration and commencement.

1.—(1) This Act may be called the Criminal Law Amendment Act, 1932.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall remain in force for three years from its commencement.

(4) The whole of the Act except section 4 and section 7 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that section 4 or section 7 shall come into force in any area on such date as may be specified in the notification.

Dissuasion from enlistment.

2. Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Exception 1.—This provision does not extend to comments on or criticisms of the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment.

Exception 2.—This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants.

Tampering with public servants.

3. Whoever induces or attempts to induce any public servant to fail in his duty as such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village choukidar, and an employee of a public utility service as defined in section 2 of the Trades Disputes Act, 1929. XLV of 1860. VII of 1929.

Boycotting a public servant.

4.—(1) Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with, whether by supplying goods to, or otherwise, or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—For the purposes of this section " public servant " has the same meaning as in section 3 but includes also a person in the Military, Naval or Air Service of His Majesty.

(2) No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of or under authority from the Local Government or some officer empowered by the Local Government in this behalf.

Dissemination of contents of proscribed document.

5.—(1) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

V of 1898.
XXIII of 1931.

Dissemination of false rumours.

6.—(1) Whoever makes, publishes or circulates any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section public servant means a public servant as defined in section 21 of the Indian Penal Code.

XLV of 1860.

(2) So long as this section remains in force, clause (*b*) of section 505 of the Indian Penal Code shall be inoperative.

XLV of 1860.

Molesting a person to prejudice of employment or business.

7.—(1) Whoever—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

Power to order parent or guardian to pay fine imposed on young person.

8.—(1) Where any young person under the age of sixteen years is convicted by any Court of an offence, which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian.

Explanation.—In this section the word " guardian " includes any person who, in the opinion of the Court, has for the time being the charge of or control over the offender.

(2) Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conducted to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace.

(3) Where a parent or guardian is ordered to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Procedure in offences under the Act.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— V of 1898.

(i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act;

(ii) an offence punishable under section 2, 3, 5, 6 or 7 shall be cognizable by the police;

(iii) an offence punishable under section 4 shall be an offence in which a warrant shall ordinarily issue in the first instance; and

(iv) an offence punishable under section 7 shall be non-bailable.

Power of Local Government to make certain offences cognizable and non-bailable.

10.—(1) The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed XLV of 1860. in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cogniz- V of 1898

V of 1898. able, and thereupon the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly.

(2) The Local Government may, in like manner and subject to the like conditions, and with the like effect, declare that an offence XLV of 1860. punishable under section 188 or section 506 of the Indian Penal Code shall be non-bailable.

XIV of 1908. Amendment of section 16, Act XIV of 1908.

11. So long as this Act remains in force, section 16 of the Indian Criminal Law Amendment Act, 1908, shall be deemed to be re-numbered as sub-section (1) of section 16 and to that section as so re-numbered the following sub-section shall be deemed to be added, namely :—

(2) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India."

XIV of 1908. Amendment of Section 17, Act XIV of 1908.

12. So long as this Act remains in force, to section 17 of the Indian Criminal Law Amendment Act, 1908, the following sub-section shall be deemed to be added, namely :—

" (3) An offence under sub-section (1) shall be cognizable by the police, and notwithstanding anything contained in V of 1898. the Code of Criminal Procedure, 1898, shall be non-bailable."

XIV of 1908. Insertion of new sections 17A, 17B, 17C, 17D, 17E and 17F in Act XIV of 1908.

13. So long as this Act remains in force, after section 17 of the Indian Criminal Law Amendment Act, 1908, the following sections shall be deemed to be inserted, namely :—

" 17A.—(1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.

Power to notify and take possession of places used for the purposes of an unlawful association.

Explanation.—For the purposes of this section ' place ' includes a house or building, or part thereof or a tent or vessel.

(2) The District Magistrate or in a Presidency-town the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government :

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

Moveable property found in a notified place.

17B.—(1) The District Magistrate, Commissioner of Police or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the District Magistrate, or in a Presidency-town the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to His Majesty.

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the District Magistrate or Commissioner of Police, as the case may be, may direct.

(4) The District Magistrate or Commissioner of Police shall publish, as nearly as may be in the manner provided in section 87 of the Code of Criminal Procedure, 1898, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article. V of 1898.

(5) Where any such representation is accepted by the District Magistrate or Commissioner of Police, he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final. V of 1908.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate or Commissioner of Police may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of

the sale shall be disposed of in the manner herein provided for the disposal of other articles.

Trespass upon notified places.

17C. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass.

The relinquishment of property.

17D. Before a notification under sub-section (1) of section 17A is cancelled, the Local Government shall give such general or special directions as it may seem requisite regulating the relinquishment by Government of possession of notified places.

Power to forfeit funds of an unlawful association.

17E.—(1) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purpose of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section (1) the Local Government shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of its intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge in a District, or to the Chief Judge of the Small Cause Court in a Presidency-town, to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of, and unless the District Judge or Chief Judge of the Small Cause Court has decided that the monies, securities or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.

V of 1908.

(5) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(6) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business. V of 1898.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(9) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, ' security ' includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

(11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of the Local Government.

Jurisdiction barred.

17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E no proceeding purporting to be taken under section 17A, 17B, 17C, 17D or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf or or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

XIII of 1931.

Amendment of title and preamble of Act XXIII of 1931.

14. In the long title and in the preamble of the Indian Press (Emergency Powers) Act, 1931, for the words "against the publication of matter inciting to or encouraging murder or violence" the words "for the better control of the Press" shall be substituted.

XIII of 1931.

Amendment of section 1, Act XXIII of 1931.

15. For sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, the following sub-section shall be substituted, namely :—

"(3) It shall remain in force until the expiration of the Criminal Law Amendment Act, 1932."

XXIII of 1931.

Amendment of section 4, Act XXIII of 1931.

16. In sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931,—

(*a*) after clause (*b*) the following words and clauses shall be inserted, namely :—

"or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,";

(*b*) the *Explanation* shall be numbered as *Explanation* 1, and after the *Explanation* as so numbered the following *Explanations* shall be inserted, namely :—

"*Explanation* 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (*h*) of this sub-section."

Cessation of effect of section 62, Ordinance X of 1932.

17. On the commencement of this Act section 62 of the Special Powers Ordinance, 1932, shall cease to have effect. X of 1932.

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

Adoption and continuance of action taken under Ordinance X of 1932.

X of 1932.

XIV of 1908.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordnance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

Adoption and continuance of action taken under Act XXIII of 1931 as amended by Ordinance X of 1932.

XXIII of 1931.

X of 1932.

XXIII of 1931.

20. Any person accused of the commission of an offence punishable under section 24, 25, 26, 28, 67 or 70, or by reason of the provisions of Chapter VI of the Special Powers Ordinance, 1932, may, notwithstanding the expiry of the said Ordinance, be tried and punished as if such offence were an offence punishable under or by reason of the corresponding enactment of this Act, and as if this Act had been in force at the time of such commission; and any trial of any such offence begun but not completed at the expiry of the Special Powers Ordinance, 1932, may be continued and completed as if it had been begun after the passing of this Act:

Trial of, and completion of trials of, offences against Ordinance X of 1932.

X of 1932.

X of 1932.

Provided that no trial of an offence punishable under section 67 or 70 of the said Ordinance shall be begun, continued or completed in any area in which section 4 or section 7, as the case may be, is not in force.

No. 3.

DESPATCH FROM THE GOVERNOR-GENERAL TO THE MOST HONOURABLE THE MARQUESS OF ZETLAND, P.C., G.C.S.I., G.C.I.E., HIS MAJESTY'S SECRETARY OF STATE FOR INDIA, DATED THE 4TH OCTOBER, 1935.

Subject: THE CRIMINAL LAW AMENDMENT ACT, 1935.

I have the honour to submit herewith an authentic copy of the Act noted above to which I have signified my assent. This Act was introduced in the Legislative Assembly on 2nd September.

That House, on 12th September, after six days' discussion, refused by 71 votes to 61 to take the Bill into consideration. For the reasons stated by me (copy enclosed)* in addressing both Houses of the Legislature on 16th September, I felt it my duty to return the Bill to the Legislative Assembly in a recommended form. That House on the same day rejected by 69 votes to 57 the motion for leave to introduce the Bill in the form recommended. In acordance with the provisions of clause (*b*) of sub-section (1) of section 67 (B) of the Government of India Act, the Bill was then laid before the Council of State, and that House accepted the motion for consideration by 35 votes to 10, and passed the Bill in the form recommended without a division. I do not propose to exercise the power vested in me in the proviso to sub-section (2) of section 67 (B) to direct that the Act shall come into operation forthwith, but I submit the Act so that His Majesty's assent may be obtained after the formalities laid down in sub-section (2) of that section have been duly observed.

2. The effect of this Act is to give permanency to the Indian Press (Emergency Powers) Act, 1931, and certain provisions of the Criminal Law Amendment Act, 1932, both of which Acts would in the ordinary course expire on 18th December, 1935. The Indian Press (Emergency Powers) Act, 1931, was passed to assist Government in checking the very serious recrudescence of terrorism which began in that year by giving powers to deal with the publication of matter inciting to or encouraging murder or violence. As passed that Act had validity for one year only. The Criminal Law Amendment Act, 1932, extended the scope of, and gave further validity to, the Press (Emergency Powers) Act of 1931 and in addition contained provisions whch enabled Government to deal with certain forms of intimidation which were a special feature of the civil disobedience movement and also to deal more effectively with associations declared unlawful under the Criminal Law Amendment Act, 1908. The immediate origin of the Act of 1932 was the civil disobedience movement. But the fact that the orginal form of the Bill placed no limit to its period of validity and the statements made on behalf of Government when the Legislature was asked in 1932 to take the Bill into consideration show conclusively that Government intended the measure to check other subversive movements in addition to civil disobedience and more particularly terrorism and communism. It is important to stress this point because much of the opposition to the Act which I now submit to you was based on assertions that the sole object of the Act of 1932 was to strengthen the hands of Government in dealing with the civil disobedience movement, and that, as that movement no longer exists in an active form, there is no justification for the continuance of the Act. I shall have something more

---

* Printed as an annexure.

to say in regard to the present position in relation to civil disobedience in another portion of this despatch.

3. I now desire to explain briefly the more important provisions which are continued in a permament form by this Act and the reasons which have led me to use the special powers conferred on me by the Government of India Act. These provisions are sections 5, 7, 13 and 14-16 of the Criminal Law Amendment Act, 1932.

Section 5 makes it a penal offence to disseminate the contents of proscribed documents. Government have at present the power in certain circumstances to proscribe documents, but it is no offence to republish a document that has been proscribed. Without such a provision proscription loses much of its effect and this section fills an obvious gap in the ordinary law.

Section 7 makes picketing a penal offence in any area to which the Local Government may, by notification, apply the section. Since it was extensively used during the civil disobedience movement, picketing has become a more or less normal method of expressing opposition not only to Government but to any constituted authority and even to private persons for political, economic or religious reasons. Experience has shown that in India picketing very frequently leads to violence—the serious riots in Dacca in 1930 and Cawnpore in 1931 began with picketing—and that there are no provisions in the ordinary law which enable the authorities to deal with it effectively at the outset. I should explain further that this section was never intended to be used to deal with peaceful picketing in purely industrial disputes. There are executive orders against its use in such cases and, so far as I am aware, these orders have been strictly observed. On the other hand, the section has proved useful in dealing with strikes started with a political as distinct from an industrial object and inspired by communist agents in pursuance of communist aims.

Section 13 contains provisions which strengthen the hands of Government in dealing with associations declared unlawful under the Criminal Law Amendment Act, 1908. If the principle of declaring associations unlawful in certain circumstances is accepted —and that principle has been embodied in the law of India for the last twenty years—then it is only logical that Government should have the power to cripple the activities of such associations. The Act of 1908 provided Government with power to prosecute persons who are members of, or who manage or assist in the management of, such associations, but such prosecutions have been found by experience to be an ineffective check on the activities of the associations. Section 13 gives Government power to take possession of the buildings and funds of these associations. It proved very effective in the civil disobedience movement and Government have reason to believe that the section is a powerful deterrent to the supply of funds to unlawful associations and has placed serious difficulty in

the way of the Communist Party of India obtaining funds for its work.

Sections 14-16 give Government certain powers of control over the Press. These are the most controversial provisions of the Act of 1932. They are also the provisions which my Government consider most vital in the new Act and to which the most determined opposition has been made. Here again I rely on the results of experience. Since the Press Act was passed in 1910 there have been three periods during which the Press has been subject to no control, namely, (1) 1922 to April 1930, (2) October to December 1930 and (3) March to October 1931. The experience of the eight years of the first period shows that the ordinary law was entirely insufficient to stop inflammatory writings of the most dangerous description in support of terrorism, in praise of terrorist murders and in the most violent incitement to communal hatred. There can be little doubt that such inflammatory writings did much to intensify the communal hatred which led to the serious riots in Calcutta in 1926 and Lahore in 1927, and which prepared the ground for the outbreak of terrorist crimes which began in 1931. Immediately after the Press Ordinance of 1930 lapsed in October of that year a new flood of violent and seditious articles in which murderers were praised began to appear. History repeated itself in 1931 when the second Press Ordinance was withdrawn as a result of the Delhi Pact. Once again there was direct and open approval of terrorism and violence with the result that the Indian Press (Emergency Powers) Act was passed in October 1931. There is, in my mind, no doubt whatever that if these sections were allowed to lapse, the same results would again inevitably follow and having regard to the present situation in India, particularly with reference to terrorism and communal unrest, I feel that I would have failed in my duty had I not used such powers as I possessed to prevent such a situation again arising. I may add that there is a very general recognition of the fact that there is a section of the Indian Press which is wholly irresponsible and entirely unscrupulous, and which is run with the sole object of personal gain and which does not hesitate to encourage terrorism and communal hatred. The difference that exists between those who recognise the existence of this fact and my Government is in regard to the sufficiency of the ordinary law to deal with the evil. I am myself entirely satisfied that the experience of the last thirteen years has proved beyond any doubt whatever that the existing law is insufficient to deal with this evil.

4. I now turn to explain the present situation in India in regard to those dangers which in my opinion make this Act essential for the tranquillity of the country. These are the threat of civil disobedience, terrorism, communism and communal hatred. Civil disobedience is at present in abeyance, but the leaders of the Congress Party have made it clear beyond all possibility of doubt

that they have not abandoned the principle of civil disobedience and that they hold themselves free to revive it whenever it suits them to do so. Mr. Gandhi himself has also quite recently and publicly reiterated his belief in " non-violent disobedience of laws." Civil disobedience in some form or other will undoubtedly be an important weapon in the armoury of those who desire to wreck the new constitution. While, therefore, my Government have thought it possible to drop some of the provisions (sections 2, 3, 4, 6 and 8) of the Act of 1932 which were designed to counter certain special features of the civil disobedience movement, I am fully satisfied that the threat of civil disobedience is a sufficiently real danger to strengthen the other reasons which exist for retaining certain other provisions of the Act.

5. The position in regard to terrorism in Bengal has undoubtedly improved very appreciably since 1932. But His Excellency the Governor of Bengal has on more than one recent occasion impressed on the public that the terrorist virus is still active and that the movement is still receiving a steady flow of new recruits. In some other provinces, particularly in Assam, Ajmer, the United Provinces and Bihar and Orissa, there has unfortunately been clear evidence of renewed terrorist activity. Out of 25 terrorist incidents since 1st April, 1935, more than half have occurred in these provinces. Opposition to the continuance of the provisions of the Act of 1932 has to some extent been based on the argument that the special Acts in Bengal are sufficient to meet this danger. But those who use that argument clearly overlook the facts that terrorism is not confined to Bengal and that without the continuance of sections 14 to 16 of the Act of 1932 the Bengal Government will have no effective control over the Press. In my considered opinion, the relaxation of the provisions dealing with the Press would very quickly undo the improvement effected in Bengal and would stimulate recruitment to the terrorist movement throughout India.

6. The avowed aim of communism in India is to bring about an armed revolution as quickly as possible " by the armed insurrection of the widest possible masses of the working class, the peasantry, and the revolutionary petty bourgeoisie ". The dangers of this movement are not generally appreciated in this country because of its underground methods of working. But my Government have ample evidence of the determination with which its activities are being pursued and I am satisfied that it forms a very real, though possibly not an immediate, menace to the peace of the country.

7. The last danger is communal feeling. Within the last six months there have been serious riots due to this cause in places as far apart as Karachi and Secunderabad and also in the Agra district of the United Provinces, the Champaran district of Bihar and Orissa, the Rajshahi district of Bengal and in Lahore. At the present moment communal feeling in the Punjab is more tense

than officers with long experience of that province have ever known. In times of such feeling in India an uncontrolled Press is a most serious danger.

8. Much of the opposition to the Act has been due to the fact that no period has been set to its validity. In the form in which it was introduced it was a permanent measure and I retained that feature in the form in which I recommended the Bill. My main reason for doing so was that I find it at present impossible to forsee any reasonable period of time within which, at any rate, terrorism and communal unrest will not be a serious menace to the public peace. A further reason is that temporary legislation designed to counter subversive movements has this unsatisfactory feature, that it encourages the promoters of such movements to cherish the hope that the time will come when their unlawful activities can be resumed. It affords no inducement for them to abandon their schemes. I am also of the opinion that it is in the interests of the new provincial Governments that this Act should be on the statute-book in a permanent form. These Governments will, if they feel that this can safely be done, be in a position to withdraw some or all of the provisions of the Act, and on the other hand, if they feel that the provisions of the Act are essential for the tranquillity of their provinces, will not be placed in the difficult position at an early stage of the reformed constitution of having to face the unpopularity which befalls any Government which finds it necessary to pass legislation of this nature.

9. All Local Governments were consulted on every provision of this Bill. Their opinions have been forwarded to you by my Government and you will no doubt have observed that they have given the provisions of the Bill practically unanimous support.

10. Copies of the Indian Press (Emergency Powers) Act, 1931, and the Criminal Law Amendment Act, 1932, are enclosed. Copies of the proceedings in both Houses of the Legislature have already been forwarded to you.

I have, etc.,

(Sd.) WILLINGDON.

ANNEXURE TO GOVERNOR-GENERAL'S DESPATCH OF THE 4TH OCTOBER, 1935, TO THE SECRETARY OF STATE FOR INDIA.

Extract from the Speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy on the 16th September, 1935.

On Thursday last the Legislative Assembly to the regret of my Government and myself refused by a majority to take into consideration the Bill to give permanence to the Indian Press (Emergency Powers) Act, 1931, and to certain provisions of the Criminal Law Amendment Act, 1932. I had hoped that the Assembly would share with Government the responsibility for this

on 10 January, 2019

measure. Their refusal to do so has transferred the responsibility to me and after taking time to consider all the implications of action or inaction on my part I have decided, in discharge of my responsibility for the safety, tranquillity and interests of British India, to give the Assembly an opportunity to reconsider their decision, and the Bill will be brought before that House again in a recommended form. The arguments for and against the Bill have already been discussed at great length on the floor of the Legislative Assembly, and I shall, therefore, state as briefly as possible my own reasons for considering the passage of the Bill to be essential. We are on the eve of important changes in the Constitution of India. Within the next two years the primary responsibility for the maintenance of peace and good government in the Provinces will be transferred to Ministries responsible to the Legislatures. I consider it my imperative duty to use such powers as I possess to secure that that transfer takes place in the most favourable conditions possible to the stability and success of these new Governments. Dangerous subversive movements are still active in the country. Communal unrest as I have already said is unfortunately a more serious danger than for many years past. The experience of all Local Governments has been that the provisions of this Bill give them powers which are effective in keeping these movements in check and in preventing the publication of incitements to communal dissension. They are unanimous in considering the retention of these powers essential. I am myself satisfied that they are right and that I would be failing in my duty if I did not use my special powers to secure that these Governments have these powers during the remainder of the present Constitution and that the new Governments shall also have them when they take over the reins of Government.

No. 4.

FROM THE SECRETARY OF STATE FOR INDIA TO THE GOVERNOR-GENERAL, DATED 17TH OCTOBER, 1935.

Telegraphic.—I have received Your Excellency's despatch dated 4th October, and authentic copy of Criminal Law Amendment Act, 1935, to which you have signified your assent. I desire to assure you that the provisions of the Act and your action in respect of it have my full approval, and I am taking the further steps required in pursuance of section 67B, Government of India Act.

(32135—36) Wt. 1459—1309 750 11/35 P. St. G. 373